

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KEVIN PATRICK FLOOD,	:	
Plaintiff,	:	
v.	:	Civil Action No. 06-82J
TROOPER CHARLES SCHAEFER,	:	
<u>et al.</u> ,	:	
Defendants	:	

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

On September 7, 2006, the Magistrate Judge filed a Report and Recommendation, docket no. 20, recommending pursuant to 28 U.S.C. § 1915A that the complaint be dismissed for failure to state a claim not barred by Heck v. Humphrey, 512 U.S. 477 (1994).

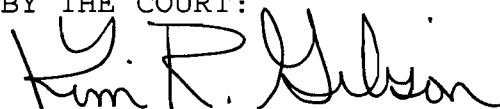
The plaintiff was notified that pursuant to 28 U.S.C. § 636(b)(1), he had ten days to serve and file written objections to the Report and Recommendation. Plaintiff filed timely objections, docket no. 21, which I have reviewed de novo. Plaintiff expressly disclaims any claim that would call the validity of his pending criminal prosecution into doubt and asserts only a substantive due process claim (he styles it an Eighth Amendment deliberate indifference claim) alleging that the manner in which he was interrogated violates the constitution. That amended complaint is insufficient to state any claim.

After de novo review of the record of this matter together with the Report and Recommendation, and the objections thereto, the following order is entered:

AND NOW, this 26th day of September, 2006, it is

ORDERED that the plaintiff's complaint, as amended, is dismissed for failure to state a claim. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson". The signature is written in a cursive, flowing style. The first name "Kim" is written in a larger, more prominent script, followed by "R." and "Gibson". The signature is positioned above a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to:

Kevin P. Flood 04-2446
Cambria County Prison
425 Manor Drive
Ebensburg, PA 15931